

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MARYLAND
(GREENBELT DIVISION)

ENTERED

OCT 24 2002

U.S. BANKRUPTCY COURT
DISTRICT OF MARYLAND
GREENBELT

In re:

MATTRESS DISCOUNTERS
CORPORATION and
TJB, INC.,

Debtors.

02-22330 DK
Case Nos.: 02-____ (____) through
02-____ (____)

Chapter 11

(Pending Joint Administration)

FIRST INTERIM ORDER AUTHORIZING DEBTORS' USE OF LENDERS' CASH
COLLATERAL AND GRANTING ADEQUATE PROTECTION PURSUANT
TO 11 U.S.C. §§ 361 AND 363 AND FED. R. BANKR. P. 4001

Upon the motion dated October 23, 2002 (the "Motion"¹), wherein Mattress Discounters Corporation ("Mattress Discounters") and TJB, Inc. ("TJB" or the "Affiliate Debtor"), debtors and debtors-in-possession in the above-captioned cases (Mattress Discounters and TJB, collectively, the "Debtors"), moved this Court for an interim and final order (a) authorizing Debtors' use of Lenders' Cash Collateral (as defined below) pursuant to Sections 105 and 363 of Title 11, United States Code (the "Bankruptcy Code") and Rules 2002 and 4001 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"); (b) granting adequate protection to the Lenders pursuant to Sections 361 and 363 of the Bankruptcy Code with respect to any diminution in the value of the Lenders' interests in the Prepetition Collateral (as defined below), whether from the use of the Cash Collateral, the use, sale, lease, depreciation, decline in market price, or otherwise of the Prepetition Collateral, or the imposition of the automatic stay pursuant to Section 362(a) of the Bankruptcy Code; (c) scheduling, in accordance with Bankruptcy Rule 4001(b)(2), a final hearing (the "Final Hearing") to consider entry of a final order (the "Final Order") with respect thereto; and (d) approving notice with respect thereto; and

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in accordance with Bankruptcy Rules 4001(b)(2) and (b)(3), due and proper notice of the Motion and the initial hearing thereon (the "Initial Hearing") having been given under the circumstances; and the Initial Hearing on the Motion having been held and concluded on October 24, 2002; and objections to the Motion, if any, having been withdrawn or overruled; and upon all of the pleadings filed with the Court, all of the proceedings held before the Court and the entire record made at the Initial Hearing; and after due deliberation and consideration and sufficient cause appearing therefor,

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The Parties have represented to the Court as follows:
~~THE COURT HEREBY FINDS²:~~

A. On October 23, 2002 (the "Petition Date"), each of the Debtors filed with this Court a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtors' motion for joint administration is pending before the Court.

B. The Debtors are operating their businesses and managing their properties as debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. No request has been made for the appointment of a trustee or examiner, and no statutory committee has yet been appointed in the Debtors' Chapter 11 cases.

C. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, and over the persons and property affected hereby. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The statutory and rule predicates for the relief sought herein are Sections 105, 361, 362 and 363 of the Bankruptcy Code and Bankruptcy Rule 4001(b). Venue of the Debtors' Chapter 11 cases in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

¹ Capitalized terms not specifically defined herein shall have the meaning ascribed thereto in the Motion.
² Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. See Bankruptcy Rule 7052.

D. Prior to the Petition Date, the Lenders established certain loan facilities (collectively, the "Prepetition Credit Facility") with the Debtors pursuant to the terms of that certain Credit Agreement, dated as of August 6, 1999, as amended and restated as of January 11, 2002, and as amended by the First Amendment dated as of May 14, 2002, the Second Amendment, dated as of June 20, 2002, and the Third Amendment, dated as of September 30, 2002 (collectively, as amended, supplemented or otherwise modified through the Petition Date, the "Prepetition Credit Agreement"; and, together with all other documentation executed in connection therewith, the "Prepetition Loan Documents"), among Mattress Discounters Holding Corporation ("Holdings"), Mattress Discounters, as borrower (the "Borrower"), the several banks and other financial institutions from time to time parties thereto (the "Lenders"), Fleet National Bank, as co-Agent, and JPMorgan Chase Bank (f/k/a/ The Chase Manhattan Bank), as administrative agent for the Lenders (in such capacity, the "Administrative Agent"). Holdings and the Affiliate Debtor are guarantors pursuant to a Guarantee and Collateral Agreement, dated as of August 6, 1999 (the "Guarantors").

E. The Prepetition Credit Facility provided for the extension of revolving credit loans and the provision of letters of credit, subject to the terms and conditions thereof including a borrowing base requirement. The Lenders claim that, on the Petition Date, approximately \$13.9 million in principal amount under Tranche A, \$12.5 million in principal amount under Tranche B and approximately \$2 million in face amount of letters of credit were outstanding under the Prepetition Credit Facility (plus interest, fees, charges, costs and other expenses) and separate letters of credit issued by JPMorgan Chase Bank in an aggregate face amount of approximately \$107,000 that are secured by the Prepetition Collateral were also outstanding.

F. The Lenders claim that the Prepetition Credit Facility is secured by substantially all of the non-real property assets, wherever located and whether then existing or owned or thereafter arising or acquired by the Debtors, including but not limited to accounts, equipment, inventory, intellectual property, investment property, deposit accounts, general intangibles and all proceeds and products of any and all of the foregoing and all collateral security and guarantees given by any person with respect to any of the foregoing as well as certain real estate (as more fully described in the Prepetition Loan Documents, the "Prepetition Collateral").

G. The Lenders claim that the proceeds, products, rents or profits of any Prepetition Collateral and all Prepetition Collateral consisting of cash, negotiable instruments, securities, deposit accounts, deposits with the Lenders subject to set off, cash arising from the collection, sale, lease or other disposition, use or conversion to cash of any property of the Debtors in which the Lenders have any lien or security interest, whether such liens or security interests (including, without limitation, any replacement liens or security interests) existed at the commencement of this case or arise thereafter pursuant to this First Interim Order or any order of the Court or applicable law or otherwise, and whether such property that has been converted to cash existed as of the Petition Date or arose or was generated thereafter, or other cash equivalents constitute "cash collateral" of the Lenders within the meaning of Section 363 of the Bankruptcy Code (the "Cash Collateral"). The Lenders have objected to the use by the Debtors of the Prepetition Collateral including the Cash Collateral, except on the terms of this Order. In addition, the Lenders are entitled, pursuant to the Bankruptcy Code, to adequate protection of their interest in the Prepetition Collateral, including for the use of the Cash Collateral and the

use, sale, lease, depreciation, decline in market price or other diminution in value of the Prepetition Collateral other than the Cash Collateral, after the imposition of the automatic stay.

H. An immediate need exists for the Debtors to use the Cash Collateral to continue their operations, administer and maximize the value of their estates and assets and conduct an orderly disposition of a portion of the Debtors' assets and business in a manner that will maximize the value of the Debtors' properties and estates for the benefit of creditors. The ability of the Debtors to finance the orderly disposition of their assets and business requires the availability of working capital, the absence of which would immediately and irreparably harm the Debtors, their estates and their creditors. The use of the Lenders' cash collateral is therefore of the utmost significance and importance to the preservation and maintenance of the value of the Debtors' estates in order to maximize the potential recovery to creditors of the Debtors' estates.

I. The Administrative Agent, the Lenders and the Debtors have negotiated in good faith and at arms' length regarding the Debtors' use of the Cash Collateral to fund the administration and orderly disposition of the Debtors' estates, and the Administrative Agent and the Lenders have agreed to permit the Debtors to use their Prepetition Collateral, including the Cash Collateral, for the period through the Termination Date (as defined below), but only upon the terms and conditions set forth herein, which terms and conditions include, but are not limited to, the protection afforded to a party acting in "good faith" pursuant to Section 363(m) of the Bankruptcy Code and the Debtors' agreement to grant to the Lenders (i) liens on all or substantially all of the assets of the Debtors as security for the Adequate Protection Obligations (as hereinafter defined), and (ii) a superpriority administrative expense claim status over any and

all administrative expenses of the kind specified in Sections 503(b) or 507(b) of the Bankruptcy Code, and as provided in this First Interim Order.

J. The relief requested in the Motion is necessary, essential, and appropriate for the continued operation of the Debtors' business, the management and preservation of their property and the orderly disposition of their estates.

K. Notice of the Initial Hearing, which notice was provided by the Debtors (x) by hand delivery upon (i) the Office of the United States Trustee, (ii) counsel to the Lenders, and (iii) counsel to the ad hoc committee of Noteholders, and (y) by facsimile upon the each of the creditors listed on the Debtors' consolidated list of thirty largest unsecured creditors, constitutes good, sufficient and adequate notice in accordance with Bankruptcy Rules 2002 and 4001(b), Sections 102(1) and 363 of the Bankruptcy Code and the local rules.

L. Based on the record presented to the Court at the Initial Hearing, the terms of the Debtors' use of the Cash Collateral and the Prepetition Collateral are fair and reasonable and reflect the Debtors' exercise of prudent business judgment consistent with their respective fiduciary duties.

M. Good and sufficient cause has been shown for the entry of this First Interim Order. Among other things, the entry of this First Interim Order will enable the Debtors to continue to operate their business and facilitate the orderly disposition of their business operations, including the Prepetition Collateral; increase the possibility of maximizing return to creditors; and avoid disputes with the Lenders with respect to adequate protection. The permission granted herein to use the Lenders' Cash Collateral is necessary to avoid immediate and irreparable harm to the Debtors. This Court concludes that entry of this First Interim Order is in the best interest of the Debtors, their creditors and their estates.

NOW, THEREFORE, UPON THE MOTION, AND THE RECORD BEFORE THE COURT WITH RESPECT TO THE MOTION, AND WITH THE CONSENT OF THE DEBTORS, THE ADMINISTRATIVE AGENT AND THE LENDERS TO THE FORM AND ENTRY OF THIS FIRST INTERIM ORDER, AND GOOD CAUSE APPEARING, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is hereby granted. Subject to the terms and conditions hereof,

8 the Debtors are hereby authorized, during the period from the Petition Date through and including the earlier of November 1, 2002 (the "Expiration Date") and the Termination Date (as defined below) to use the Cash Collateral to operate their business in accordance with the Budget (as defined below).

provided that parties cannot agree on a budget for the period 11-1-02 through November 8-02. A further hearing will be held on November 4 at 2:00 PM.

2. The Debtors are not permitted to use any Cash Collateral except as set forth in this First Interim Order and only in accordance with the budget prepared by the Debtors and accepted by the Administrative Agent (the "Budget"; such specified expenses being referred to hereinafter as "Permitted Expenses") and subject to the weekly borrowing base requirement as provided in the Prepetition Credit Facility. A copy of the Budget for the time period from October 23, 2002 through the Expiration Date (the "First Interim Cash Collateral Period") is annexed hereto as Exhibit A. The Debtors warrant and represent that the Budget includes their estimate of foreseeable, reasonable and necessary expenses to be incurred in connection with these Chapter 11 cases, the operation of the Debtors' businesses, and the sale and/or liquidation of a portion of the Debtors' assets during the First Interim Cash Collateral Period. Without the prior written consent of the Administrative Agent, the Debtors may only pay each Permitted Expense in an amount, subject to the following provisos, not to exceed on a line item basis the greater of (x) 15% and (y) \$100,000 in excess, in each case, of the amount set forth for such Permitted Expense in the Budget; provided, however, that in no event shall the aggregate expenditures exceed the total amount authorized by the Budget for the First Interim Cash

Collateral Period by more than \$250,000; provided, further, amounts authorized to be spent in any week and not so expended may be carried forward and spent (without any additional variance) in any succeeding week until earlier of the Expiration Date or the Termination Date; provided, further, that the Debtors agree, subject to the variances provided herein, not to incur, knowingly or intentionally, any administrative expenses other than as set forth in the Budget, exclusive of professional fees approved by the Bankruptcy Court pursuant to Sections 330, 331, or 503(b) of the Bankruptcy Code and fees payable pursuant to 28 U.S.C. §1930, without prior written consent of the Lenders or approval by the Bankruptcy Court after a hearing on appropriate notice to the Lenders; provided, further, that the Debtors may use Cash Collateral for expenditures other than as authorized by the Budget with the prior written consent of the Agent and the Required Lenders and without the need for further Order of the Court. No later than the Wednesday of each week following the Petition Date, the Debtors shall prepare and deliver to the Administrative Agent and its advisors: 1) a report of actual receipts and disbursements and a reconciliation of actual disbursements as compared to the Budget, on a line by line basis, with a report of any material variances and the reasons therefor, in a form reasonably satisfactory to the Administrative Agent; and 2) weekly reports in the same form as the reports that were provided by the Company to the Administrative Agent and the Lenders prior to the Petition Date, except, however, that the borrowing base certificate shall be prepared on a weekly basis.

3. With respect to any approval or disapproval of expenditures set forth in the Budget, the Administrative Agent and the Lenders shall not owe any fiduciary duty to the Debtors, their respective creditors, shareholders or estates.

4. As adequate protection for, and to the extent of, any diminution in the value of the Administrative Agent's interest in the Prepetition Collateral resulting from (x) the

*Due to the extent that
that the
liens on the
Prepetition
Collateral
are valid,
perfected
and
unavoidable*

*Provided
however
that such
amount
shall not
exceed
\$250,000*

use of the Cash Collateral pursuant to Section 363(c) of the Bankruptcy Code, (y) the use, sale or lease of the Prepetition Collateral (other than the Cash Collateral) pursuant to Section 363(c) of the Bankruptcy Code and (z) the imposition of the automatic stay pursuant to Section 362(a) of the Bankruptcy Code (the amount of any such diminution being referred to hereinafter as the "Adequate Protection Obligations"), the Administrative Agent, on behalf of the Lenders, is hereby granted, as additional security for the Adequate Protection Obligations, effective as of the Petition Date (and without the necessity of the execution by the Debtors, or filing, of security agreements, pledge agreements, mortgages, financing statements or otherwise), valid and perfected, replacement, highest, non-priming priority security interests in, and liens on (the "Replacement Liens") all of the Debtors' right, title and interest in, to and under all pre-Petition Date and post-Petition Date (including hereafter acquired) real and personal property, assets, rights and interests of the Debtors, of any nature whatsoever, including, without limitation, leases of real property, real estate, leases of personal property, inventory, including after-acquired inventory and receivables, machinery, equipment, general intangibles, goods, all cash, all cash equivalents, all accounts, all proceeds, products, rents and/or profits thereof but excluding all causes of action under Chapter 5 of the Bankruptcy Code and the proceeds thereof (such collateral, collectively, with the proceeds and products of any and all of the foregoing, the "Replacement Collateral"). The Prepetition Collateral, the Replacement Collateral and the other collateral granted hereunder are sometimes collectively referred to herein as the "Collateral". The Replacement Liens shall be (A) deemed valid and duly perfected as of the Petition Date, shall be valid and enforceable against any trustee appointed in these Chapter 11 cases or in any subsequent proceedings upon the conversion of any or all of these Chapter 11 cases to a case under Chapter 7 of the Bankruptcy Code, and (B) prior and senior to all liens and encumbrances

of all other secured creditors in and to the Replacement Collateral granted, or arising, after the Petition Date (including, without limitation, liens and security interests, if any, granted in favor of any federal, state, municipal or other governmental unit, commission, board or court for any liability of the Debtors). No lien or security interest in any property of the Debtors granted or arising on or after the Petition Date ^{excluding} ~~(including, without limitation, liens and security interests, if any, granted in favor of~~ any federal, state, municipal or other governmental unit, commission, or board for any liability of the Debtors) shall be created or permitted to be pari passu with, or senior to, the liens and security interests of the Lenders in the Prepetition Collateral, or the Replacement Liens. Without limiting the generality of the foregoing, the Replacement Liens (a) to be created and granted to the Lenders herein are first priority, perfected, and superior to any security, mortgage, or collateral interest or lien or claim to the Collateral and shall be subject only to non-avoidable, valid, enforceable and perfected liens and security interests in the Replacement Collateral of the Debtors, as prepetition debtors, that existed on the Petition Date and are not subject to Section 552(a) of the Bankruptcy Code (i) in favor of the Lenders, or (ii) in favor of third parties holding liens or security interests which are superior in priority, after giving effect to any existing subordination or intercreditor arrangements, to the Lenders in such Replacement Collateral, and (b) shall be at all times senior to the rights of the Debtors and any successor trustee or estate representative in the Chapter 11 Cases or any subsequent Chapter 7 or Chapter 11 case or proceedings under the Bankruptcy Code. The grant of Replacement Liens hereunder shall be supplemental of, and in addition to, the security interests and liens, which the Lenders possess pursuant to the Prepetition Credit Agreement.

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5. The Replacement Liens created herein and the priorities of same shall not be altered or affected by any plan filed by any of the Debtors or any third party, ~~nor shall they be~~

~~not affected by the incurrence of indebtedness pursuant to Section 364 of the Bankruptcy Code, the grant of other adequate protection awards by the Court or otherwise.~~

6. Without the necessity of filing of financing statements, mortgages or other documents, this First Interim Order shall be sufficient and conclusive evidence of the validity, perfection and priority of each of the Lenders' perfected liens on and security interests in all Replacement Collateral as described herein to secure the Adequate Protection Obligations. Notwithstanding the foregoing, the Debtors, and their officers or agents on their behalf, are authorized and directed, if so requested by the Lenders, to execute such documents including, without limitation, pledges, mortgages, deeds of trust and Uniform Commercial Code financing statements and to pay all costs and expenses as may be reasonably required to provide further evidence of the perfection of the Lenders' liens in the Replacement Collateral as provided herein. The automatic stay imposed under Section 362 of the Bankruptcy Code is hereby lifted to permit the Debtors to grant the aforesaid Replacement Liens and to allow the filing and recording of a certified copy of this First Interim Order or any such financing statements, notices of lien, mortgages, deeds of trust or similar instruments, and all such documents shall be deemed to have been filed or recorded coincident with the entry of this First Interim Order, and to permit the Debtors to make the payments provided for herein; provided, however, no such filing or recordation shall be necessary or required in order to create or perfect any such lien,

7. While such action is not required to perfect the Replacement Liens, the Lenders may, in their discretion, file a photocopy of this First Interim Order as a financing statement with any recording officer designated to file financing statements or with any registry of deeds or similar office in any jurisdiction in which the Replacement Collateral is or will be

located, and in such event, the subject filing or recording officer is authorized and directed to file or record such copy of this First Interim Order.

8. The Lenders and the Administrative Agent are further granted the following additional elements of adequate protection:

(a) Cash Collateral Account. In accordance with the proposed cash management system as set forth in the Emergency Motion of Debtors for Order Authorizing Continued Use of Existing Bank Accounts, Cash Management System, and Business Forms and Waiving Deposit and Investment Requirements under Bankruptcy Code Section 345, dated October 23, 2002, and unless otherwise agreed by the Administrative Agent in writing, the Debtors shall deposit and maintain all collections of accounts receivable, all other collections and proceeds and all cash and/or shall cause the sweep of such collections and other proceeds on a daily basis into Account No. 323-248144, ABA # 021-000-021 maintained at JPMorgan Chase Bank (the "Cash Collateral Account"). The Debtors agree that they will not (without the Administrative Agent's prior written consent) close Account No. 323-407625, ABA # 021-000-021 maintained at JPMorgan Chase Bank for the benefit of Mattress Discounters (the "JPM MD Account"), or establish any new bank accounts. All collections on and proceeds of the Prepetition Collateral and the Replacement Collateral (collectively, the "Collection Proceeds") shall be deposited on a daily basis in the Cash Collateral Account.

(b) Application of Collection Proceeds to the Prepetition Obligations. As further adequate protection, the Debtors shall pay to the Lenders, when due, interest accruing at the ABR rate as provided in the Prepetition Credit Facility and fees, costs and

expenses provided in the Prepetition Loan Documents, including the fees and expenses provided in paragraph 8(d) hereof.

(c) Financial Reports; Inspection of Cash Collateral. In addition, the Debtors shall provide to the Administrative Agent such other reports and information as the Administrative Agent may reasonably request from time to time. The Administrative Agent and its representatives, in the Administrative Agent's reasonable direction, shall have the right to inspect and copy the Debtors' books and records as well as inspect the Collateral during normal business hours.

(d) Additional Fees and Costs. As additional adequate protection, without the necessity of the filing of fee applications or obtaining the prior or subsequent approval of the Court with respect thereto, the Debtors are authorized and directed to pay, within ten (10) days after the presentation of invoices to the Debtors, all reasonable fees, costs and charges incurred by the Administrative Agent (including, without limitation, internal collateral auditing and monitoring expenses and the fees and expenses of any financial consultants and outside counsel advising the Administrative Agent) in connection with the Chapter 11 Cases or any subsequent proceedings. If the Debtors or any creditors' committee objects to any such invoices, objections will be filed within five (5) business days after receipt of the invoice, and any such objections, if not resolved by the parties, will be submitted to the Court for determination. The Debtors' payment of such invoices shall be in addition to the uses of the Cash Collateral pursuant to the Budget and shall not reduce the Debtors' availability of Cash Collateral pursuant to such Budget.

over The Lenders' rights with respect to the ~~super~~ priority status of the ~~allowed~~ administrative expense claims ^{are hereby reserved.} *on*

9. The Adequate Protection Obligations shall be ~~allowed administrative expense claims pursuant to Sections 503(b)(1), 507(a) and 507(b) of the Bankruptcy Code, with priority in payment over any and all (i) administrative expense claims of the kinds specified or ordered pursuant to any provision of the Bankruptcy Code including, without limitation, Sections 105, 326, 328, 330, 331, 364 and 726 of the Bankruptcy Code, and (ii) unsecured claims, against the Debtors now existing or hereafter arising of any kind or nature, and shall at all times be senior to the rights of the Debtors, and any successor trustee or any creditor, in any of these Chapter 11 cases or any subsequent proceedings under the Bankruptcy Code (the "Superpriority Claim"). No cost or expense of administration under Sections 105, 503(b), 506(e) or 507(b) or otherwise, including those resulting from the conversion of these Chapter 11 cases pursuant to Section 1112 of the Bankruptcy Code, shall be senior to, or pari passu with, the Lenders' Superpriority Claim.~~

10. The Debtors shall not, without the prior written consent of the Lenders or an order of the Court entered after notice to the Lenders and an opportunity for a hearing, (i) compromise, adjust or modify the amount of any accounts receivable (by way of discount, offset or otherwise) outside the ordinary course of business or (ii) sell or dispose of any item of Prepetition Collateral or Replacement Collateral, including real property, outside the ordinary course of business, except in each case pursuant to terms of any order of this Court approving the terms of such compromise or sale. Without limiting the foregoing, the Debtors shall not assume or reject any lease of real property or otherwise terminate or impair any of their respective rights under any such lease without order of the Court entered after two business days' written notice to the Lenders and an opportunity for a hearing.

11. No cost or expense which is incurred in connection with or on account of preservation, protection, enhancement and/or disposition of any Collateral during the First Interim Cash Collateral Period or which otherwise could be chargeable to the Administrative Agent, the Lenders or the Collateral pursuant to Section 506(c) of the Bankruptcy Code or otherwise during the First Interim Cash Collateral Period, shall be chargeable to the Administrative Agent, the Lenders or the Collateral.

12. The Debtors' authority to use Cash Collateral pursuant to this First Interim Order shall expire on the date (the "Termination Date") that is the earlier of (a) the Expiration Date and (b) automatically on the third business day after the Administrative Agent provides written notice to the Debtors, the United States Trustee and the creditors' committee, if any, that a Termination Event (as defined below) has occurred and is continuing, regardless of whether the Debtors have expended the entire amount of Cash Collateral set forth in the Budget, unless extended by further order of the Court with the prior written consent of the Lenders. On the Termination Date, the Debtors' right to use the Cash Collateral shall terminate; provided, however, the Debtors shall have the right to use Cash Collateral to pay the costs and expenses to procure and deliver inventory for which the Debtors have received payment in full from the customers through the First Interim Cash Collateral Period subject to the Administrative Agent's lack of objection to the form and substance of the Debtors' motion to honor customer practices, any ordinary and customary salaries, wages, vacation pay and other ordinary and customary employee benefits as authorized by the Court that have become payable and remain unpaid through the First Interim Cash Collateral Period; provided, further, however, that the Debtors shall have the right to use Cash Collateral in an amount up to \$100,000 for vacation obligations, which amounts shall be available to pay any vacation obligations to the Debtors' terminated

employees that may become payable by the Debtors through the First Interim Cash Collateral Period; provided, further, however, that the foregoing right of the Debtors to use Cash Collateral after the Termination Date shall not extend to any retention bonus and/or severance plans or other non-ordinary course employee benefits unless such benefits have also been approved by the Lenders; provided further that the Debtors' right to use the cash collateral as set forth above after the Termination Date shall not apply if a Termination Event of the type set forth in clause (vi) of this paragraph 12 shall have occurred. Notwithstanding the occurrence of the Termination Date or anything herein, all of the rights, remedies, benefits and protections of the Debtors, the Administrative Agent and the Lenders under this First Interim Order shall survive such termination. As used in this Order, the term "Termination Event" shall mean the occurrence of any of the following:

- (i) The entry of any order in any of the Chapter 11 cases or any successor cases by this Court or any other court of competent jurisdiction, for which the time to appeal has expired, amending, appealing, reversing, revoking, rescinding, supplementing, staying, vacating, or otherwise modifying this First Interim Order or which otherwise affects the effectiveness of this First Interim Order.
- (ii) The entry of an order in any of the Chapter 11 cases appointing an examiner or a trustee.
- (iii) The entry of any order dismissing any of the Chapter 11 cases or converting any of the Chapter 11 cases to a case under Chapter 7 of the Bankruptcy Code.
- (iv) The entry of an order of the Court or any other court of competent jurisdiction that grants any lien or security interest in any property of the Debtors in favor of any party other than the Lenders, or granting a claim to any party other than the Lenders that is pari passu with or senior to the claims granted to the Lenders pursuant to this First Interim Order.
- (v) The Debtors shall have filed any pleading seeking, or otherwise consenting to, or shall support or acquiesce in writing in any other person's motion as to, any of the matters set forth in paragraphs (i) through (iv) above, or the Court shall enter an order for which the

time to appeal has expired granting any such motion filed by any other person.

- (vi) The breach of any material term, covenant, condition or provision of this First Interim Order by the Debtors, including without limitation, making a payment not authorized by the Budget or otherwise inconsistent with paragraph 2 hereof.

13. Any modification, vacation, or stay of this First Interim Order by this or any other Court shall not affect the validity of any liability incurred pursuant this First Interim Order prior to the later of (a) the effective date of such modification, vacation, or stay, or (b) the entry of the order pursuant to which such modification, vacation, or stay was established, nor the validity, priority, or enforceability of any lien granted by the Debtors to the Lenders.

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14. ~~Pursuant to Sections 105, 361 and 363 of the Bankruptcy Code, the Administrative Agent and each of the Lenders are hereby found to be entities that have acted in "good faith" in connection with the negotiation and entry of this First Interim Order, and are entitled to the protection provided to such entities under Section 363(m) of the Bankruptcy Code.~~
Accordingly, if any or all provisions of this First Interim Order are hereafter modified, vacated or stayed by subsequent order of this Court or any other court, without the Administrative Agent's written consent, such stay, modification or vacation shall not affect: (a) the validity of Adequate Protection Obligations that are or were incurred pursuant to this First Interim Order before the Administrative Agent's receipt of notice of the effective date of such stay, modification or vacation; (b) the validity and enforceability of the Replacement Liens or (c) the Lenders' right and ability to collect all amounts due to them from any of the Debtors in respect of the Adequate Protection Obligations.

15. Any failure or delay by the Lenders in seeking relief or otherwise exercising their rights and remedies under the Prepetition Loan Documents or this First Interim

Order shall not constitute a waiver of any of the Lenders' rights hereunder, thereunder, or otherwise.

16. Based upon the Lenders' consent, the adequate protection provided herein is reasonable and sufficient to protect the interests of the Lenders during the First Interim Cash Collateral Period. Notwithstanding any other provision hereof, the grant of adequate protection to the Lenders pursuant hereto is without prejudice to the right of the Lenders to seek modification of the grant of adequate protection provided hereby so as to provide different or additional adequate protection, and without prejudice to the right of the Debtors or any other party in interest to contest any such modification. Notwithstanding any other provision hereof, in the event of the occurrence of the Expiration Date or Termination Date, the Debtors shall retain the right to request that the Court permit the use of Cash Collateral, and the Lenders retain the right to object to any such request.

17. The Court shall retain jurisdiction to interpret, enforce and resolve any issues that arise pursuant to this First Interim Order.

18. The provisions of this First Interim Order and any actions taken pursuant hereto shall survive the entry of any order which may be entered (a) confirming any Chapter 11 plan in any of the Chapter 11 Cases (and the Replacement Liens and Adequate Protection Obligations shall not be discharged by the entry of any such order or pursuant to Section 1141(d)(4), the Debtors, the Debtors hereby waiving such discharge); (b) converting any of the Chapter 11 Cases to a Chapter 7 case; or (c) dismissing any of the Chapter 11 Cases, and the terms and provisions of this First Interim Order as well as the Replacement Liens and the Superpriority Claims granted pursuant to this First Interim Order shall continue in full force and effect notwithstanding the entry of any such order, and such Replacement Liens and

per Replacement Liens

~~Superpriority Claims~~ shall maintain their priority as provided by this First Interim Order until all of the Adequate Protection Obligations are indefeasibly paid in full and discharged. If an order dismissing the Chapter 11 case under Section 1112 of the Bankruptcy Code or otherwise is at any time entered, (a) the Replacement Liens granted pursuant to this First Interim Order to the Administrative Agent and the Lenders shall continue in full force and effect and shall remain binding on all parties in interest, notwithstanding such dismissal until the Adequate Protection Obligations secured thereby shall have been indefeasibly paid and satisfied in full and (b) this Court shall retain jurisdiction, notwithstanding such dismissal, for the limited purposes of enforcing such Replacement Liens.

19. Entry of this First Interim Order shall be without prejudice to any and all rights, remedies, claims and causes of action that the Administrative Agent or the Lenders may have against the Debtors or third parties, and without prejudice to the right of the Administrative Agent and the Lenders to seek relief from the automatic stay in effect pursuant to Section 362 of the Bankruptcy Code, or any other relief in these Chapter 11 cases, and the rights of the Debtors to oppose any such relief. The provisions of this First Interim Order shall be binding upon and inure to the benefit of the Lenders, the Administrative Agent, the Debtors and their respective successors and assigns, including any trustee, examiner or other fiduciary hereafter appointed in the Chapter 11 cases or any subsequent proceedings as the legal representative of the Debtors or the Debtors' estates.

20. This First Interim Order does not create any rights for the benefit of any third party, creditor, or any direct, indirect, or incidental beneficiary.

21. The inclusion or exclusion of any provisions of the Prepetition Credit Agreement in this First Interim Order is without prejudice to, and shall not be deemed a waiver

of, the rights of the Lenders or the Debtors in any future proceedings regarding the use of Cash Collateral.

22. In the event of any inconsistency between the terms and conditions of any Prepetition Loan Documents and of this First Interim Order, the provisions of this First Interim Order shall govern and control.

23. This First Interim Order shall take effect and be fully enforceable nunc pro tunc to the Petition Date immediately upon entry hereof.

24. A further hearing to consider the Motion and the further interim use of Cash Collateral shall be held before the Honorable Judge Katz in the United States Bankruptcy Court for the District of Maryland (Greenbelt Division), in Courtroom 3C at 2:00 p.m. on November 4, 2002 or as soon thereafter as counsel may be heard.

25. Service of a copy of this First Interim Order and the Motion by hand delivery, first class mail, or deposit with a reputable overnight courier service within three (3) business days after entry hereof, upon (i) the Office of the United States Trustee, (ii) to the extent reasonably available to the Debtors, all creditors having filed UCC-1 financing statements or having recorded a mortgage on the real or personal property of the Debtors, (iii) each of the creditors listed on the Debtors' consolidated list of thirty largest unsecured creditors, (iv) counsel to the ad hoc committee of Noteholders, and (v) all parties having filed requests for notices in the Debtors' cases, shall constitute good and sufficient notice of this First Interim Order, the Motion, the further hearing on the interim use of Cash Collateral, and all proceedings to be held thereon.

26. Objections, if any, to the entry of relief sought in the Motion shall be in writing, shall conform to the Bankruptcy Rules and the Local Rules, shall set forth the name of the objector, the nature and amount of any claims or interests held or asserted by the objector

against the Debtors' estates or property, the basis for the objection, and the specific grounds therefor, and shall be filed with the Bankruptcy Court, with a hard copy to Chambers, together with proof of service thereof, and served upon (i) Hale and Dorr, LLP, 60 State Street, Boston, MA 02109, Attn: Mark N. Polebaum, Esq., Attorneys for the Debtors, (ii) Simpson Thacher & Bartlett, 425 Lexington Avenue, New York, New York, Attn: Kathrine A. McLendon, Esq., Attorneys for the Administrative Agent, and (iii) the Office of the United States Trustee for the District of Maryland, so as to be actually received not later than 4:00 p.m. on October 31, 2002.

Dated: 10/24, 2002



UNITED STATES BANKRUPTCY JUDGE

MATTRESS DISCOUNTERS
CASH DISBURSEMENTS FORECAST

(\$ in millions)

	<u>Oct. 23 - Oct. 26</u>	<u>Oct. 27 - Nov. 2</u>
Payments to Vendors	\$0.49	\$0.92
Payroll	0.60	1.29
Sales Tax	-	-
Occupancy/Rent	-	2.19
Advertising	0.50	0.33
Other Store Operating	0.21	0.36
Bankruptcy Professional Fees	-	-
Shut-down costs	-	-
Miscellaneous	0.07	0.07
Total	<u>\$1.87</u>	<u>\$5.16</u>